



March 18, 1999

Ms. Tracy B. Calabrese
Assistant City Attorney
City of Houston
Legal Department
P.O. Box 11562
Houston, Texas 77251-1562

OR99-0764

Dear Ms. Calabrese:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 122812.

The City of Houston (the "city") received a request for "a copy of the sampling of the 435 certified women and minority owned firms that were analyzed according to gross annual receipts by the mayor's affirmative action and contract compliance division." In response to the request, you submit to this office for review the information at issue. You explain that the requestor "is welcome to review the City's M/WDBE Directory which contains the names of the certified businesses." However, you assert that a portion of the submitted information is excepted from public disclosure by section 552.127 of the Government Code. We have considered the exception and arguments you raise and have reviewed the record at issue.

Section 552.127 of the Government Code provides that:

- (a) Information submitted by a potential vendor or contractor to a governmental body in connection with an application for certification as a historically underutilized or disadvantaged business under a local, state, or federal certification program is excepted from [required public disclosure], except as provided by this section.
- (b) Notwithstanding Section 552.007 and except as provided by Subsection (c), the information may be disclosed only:

(1) to a state or local governmental entity in this state, and the state or local governmental entity may use the information only:

(A) for purposes related to verifying an applicant's status as a historically underutilized or disadvantaged business; or

(B) for the purpose of conducting a study of a public purchasing program established under state law for historically underutilized or disadvantaged businesses; or

(2) with the express written permission of the applicant or the applicant's agent.

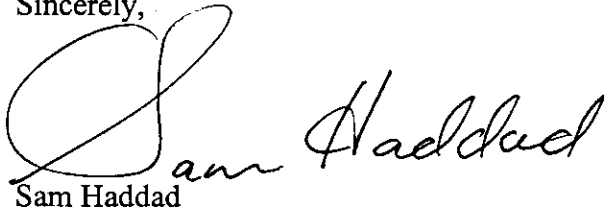
(c) Information submitted by a vendor or contractor or a potential vendor or contractor to a governmental body in connection with a specific proposed contractual relationship, a specific contract, or an application to be placed on a bidders list, including information that may also have been submitted in connection with an application for certification as a historically underutilized or disadvantaged business, is subject to required disclosure, excepted from required disclosure, or confidential in accordance with other law.

You explain that the information submitted for our review as "Exhibit 2 was compiled from information that was submitted to the City as part of the process to become certified as a minority business enterprise (MBE) or a women business (WBE)." Specifically, you have marked the information in Exhibit 2 which the city believes must be withheld under section 552.127. Based on your representation, we conclude that the information at issue, consisting of a *compilation* of "information submitted by a potential vendor or contractor," was submitted in connection with an application for certification as a disadvantaged business.

A review of the submitted information does not suggest that any of these records were submitted to the agency "in connection with a specific proposed contractual relationship, a specific contract, or an application to be placed on a bidders list." Furthermore, it does not appear that the requestor has a right of access to these records under section 552.127(b). Therefore, we conclude that the submitted "marked" record consists of information excepted from disclosure under section 552.127, and must not be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Sam Haddad". The signature is fluid and cursive, with a large initial "S" and "H".

Sam Haddad
Assistant Attorney General
Open Records Division

SH/nc

Ref.: ID# 122812

cc: Ms. Lori Rodriguez
P. O. Box 4260
Houston, Texas 77210